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AF *Zhu*

(Modified) PTO/SB/31 (08-04)  
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NOTICE OF APPEAL FROM THE EXAMINER TO THE  
BOARD OF PATENT APPEALS AND INTERFERENCES

Docket Number (Optional)

15,463.1 Customer N . 35844

I hereby certify that this correspondence is being deposited with the  
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P.O. Box 1450, Alexandria, VA 22313-1450" on:

12 Jan 2005

Signature

*Roland W Norris*

Typed or printed  
name

Roland W. Norris

In re Application of

Marcille Faye RUMAN et al.

Application Number

10/056,888

Filed

25 January 2002

For

REFASTENABLE PULL-ON TRAINING PANT WITH  
DIAGONAL SEAMS

Group Art Unit

3761

Examiner

C. L. Anderson

*WFE*

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the last decision of the examiner.

The fee for this Notice of Appeal is (37 CFR 1.17(b))

\$ 500.00

- ☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the  
fee shown above is reduced by half, and the resulting fee is: \$ \_\_\_\_\_
- ☒ A check in the amount of the fee is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Commissioner has already been authorized to charge fees in this application to a  
Deposit Account. I have enclosed a duplicate copy of this sheet.
- ☒ The Commissioner is hereby authorized to charge any deficiencies in fees which may be required,  
or credit any overpayment to Deposit Account No. 19-3550. I have enclosed a duplicate  
copy of this sheet.
- ☒ A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) and a check in the amount of \$120.00 to  
cover the extension of time fee is also enclosed

**WARNING: Information on this form may become public. Credit card information should not  
be included on this form. Provide credit card information and authorization on PTO-2038.**

I am the

- ☐ applicant/inventor
- ☐ assignee of record of the entire interest.  
See 37 CFR. Statement under 37 CFR 3.73 (b)  
is enclosed. (Form PTO/SB/96)
- ☒ attorney or agent of record.

*Roland W Norris*  
Signature

Registration No. 32,799

Roland W. Norris

Typed or printed name

1/28/2005 1/28/2005  
FC:1253 KNS02 00000001 193550 10056888  
attorney or agent acting under 37 CFR 1.34(a).  
Registration number if acting under 37 CFR 1.34(a).

12 Jan 05  
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit  
multiple form if more than one signature is required, see below.

☐ Total of forms are submitted.

SEND TO: Mail Stop AF, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

01/19/2005 SSITHIB1 00000050 10056888

01 FC:1401

500.00 00

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Adjustment Date: 09/29/2005 SDIRETA1  
01/28/2005 RJOHNS02 00000001 193550 10056888  
01 FC:1253 900.00 CR

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(Rel. 95-7403 Pub. 605)

FORM 19-4

PATENT AND TRADEMARK OFFICE 19-13

2005 AUG 10 PM 3:47

Practitioner's Docket No. KC-15,463.1

US PATENT & TRADEMARK  
OFFICE **PATENT**

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

☒ In re application of: Marcille Faye RUMAN et al.  
Application No.: 10/056,888 Group No.: 3761  
Filed: 25 January 2002 Examiner: C.L. Anderson  
For: REFASTENABLE PULL-ON TRAINING PANT WITH DIAGONAL SEAMS

☐ Patent\*:

Issued:

\*NOTE: Insert name(s) of inventor(s) and title also for patent. Where request is with respect to a maintenance fee payment also insert application number and filing date and add Box M. Fee to address.

Mail Stop 16  
Director of the U.S. Patent and Trademark Office  
P.O. Box 1450, Alexandria, VA 22313-1450

## REQUEST FOR REFUND (IMPROPER CHARGE OF DEPOSIT ACCOUNT)

NOTE: 37 C.F.R. § 1.26(b) "Any request for refund must be filed within two years from the date the fee was paid, except as otherwise provided in this paragraph or in § 1.28(a). If the Office charges a deposit account by an amount other than an amount specifically indicated in an authorization (§ 1.25(b)), any request for refund based upon such charge must be filed within two years from the date of the deposit account statement indicating such charge, and include a copy of that deposit account statement. The time periods set forth in this paragraph are not extendable."

### I. REFUND REQUEST

This is a request for a refund, with respect to the charge to Deposit Account 19-3550 shown on the statement dated 01/28/05, for the above-identified

☒ application.

☐ patent.

I hereby certify that this correspondence (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450 on 08 August 2005.

08 Aug 05  
Date

Roland W. Morris  
Signature

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(check the following, if desired, and supply copy of statement)

☒ A copy of the monthly statement, in which the error referred to occurs, accompanies this request.

PATENT MAINTENANCE  
DUE

2005 AUG 10 PM 3:18

## II. FEES CHARGED FOR WHICH REFUND REQUESTED

AMOUNT OF  
REFUND  
REQUESTED

US PATENT & TRADEMARK  
OFFICE

- ☐ Filing fee
- ☐ Surcharge for filing the basic filing fee on a date later than the filing date of the application (37 C.F.R. § 1.16(e))
- and/or
- ☐ Surcharge for filing the oath or declaration on a date later than the filing date of the application (37 C.F.R. § 1.16(e))
- ☐ Extension of term
  - ☐ first month
  - ☒ second month
  - ☐ third month
  - ☐ fourth month
  - ☐ fifth month
- ☐ Excess claims
- ☐ Issue fee
- ☐ Petition fee
- ☐ Patent maintenance fee
  - ☐ first maintenance fee
  - ☐ second maintenance fee
  - ☐ third maintenance fee
- ☐ Patent maintenance fee surcharge
- ☐ Other

\$900.00

TOTAL REFUND REQUESTED

\$900.00

(Request for Refund (Improper Charge of Credit Card Account) [19-4]—page 2 of 3)

### III. EXPLANATION OF WHY CONTESTED CHARGE IS IN ERROR

A Final Office Action dated 12 July 2004 was received by Applicants. A Response to the Final Office Action was filed by Applicants by Certificate of Mailing on 13 September 2004. The two month Response date of 12 September 2004, which was a Sunday, made the next available response date Monday, 13 September 2004, permissible for filing a response within two months of the Final Office Action. An Advisory Action was issued 14 December 2004. The Examiner mistakenly did not check Box (b) of the Advisory Action. Applicants filed a Notice of Appeal 12 January 2005 with a check for a one-month extension fee (\$120). Deposit Account 19-3550 was improperly charged \$900 for the deficiency between the check and a three month extension fee. The U.S. Patent and Trademark Office rule, annotated with the relevant dates of the present issue, is as follows:

"In the event a first reply is filed within TWO MONTHS of the mailing date of the final action [*yes Response filed Monday, 9/13/04*] and the Advisory Action is not mailed until after the end of the THREE-MONTH shortened statutory period [*correct, 3 month SSP is 12 October 2004*] Advisory Action not issued until 12/14/2004], then the shortened statutory period will expire on the date the advisory action is mailed [12/14/04], and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action [*the Notice of Appeal was filed 12 January 2005, or within one month from the Advisory Action date*]."

Therefore the fee should not have been increased over the one-month extension fee and Pauley Petersen & Erickson requests the overcharge of \$900 be returned to their Deposit Account 19-3550.

### IV. MANNER OF REFUND

Please make refund by

☒ crediting Account No. 19-3550

☐ crediting credit card as shown on the attached credit card information authorization form PTO-2038.

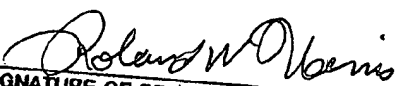
WARNING: Credit card information should not be included on this form as it may become public.

☐ refunding payment.

Reg. No.: 32,799

Tel. No.: ( 847 ) 490-1400

Customer No.: 35844

  
SIGNATURE OF PRACTITIONER

Roland W. Norris  
Pauley Petersen & Erickson

(type or print name of practitioner)

2800 West Higgins Road, Suite 365

P.O. Address

Hoffman Estates, Illinois 60195

(Request for Refund (Improper Charge of Credit Card Account) [19-4]-page 3 of 3)



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Patent and  
Trademark Office**

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**Deposit Account Statement**

Requested Statement Month: January 2005  
 Deposit Account Number: 193550  
 Name: PAULEY PETERSEN & ERICKSON  
 Attention:  
 Address: 2800 WEST HIGGINS ROAD  
 City: HOFFMAN ESTATES  
 State: IL  
 Zip: 60195  
 Country: UNITED STATES OF AMERICA

| DATE             | SEQ  | POSTING<br>REF TXT | ATTORNEY<br>DOCKET<br>NBR | FEE<br>CODE         | AMT            | BAL        |
|------------------|------|--------------------|---------------------------|---------------------|----------------|------------|
| 01/05            | 11   | E-REPLENISHMENT    |                           |                     |                |            |
| 01/07            | 425  | 78148539           | VO-8198                   | 9203                | -\$3,000.00    | \$7,798.50 |
| 01/11            | 20   | 09240524           | KCC-14-026                | 7003                | \$100.00       | \$7,698.50 |
| 01/12            | 267  | 2217958            | GRI-8053                  | 1402                | -\$330.00      | \$8,028.50 |
| 01/13            | 20   | 5648722            | VC-101                    | 7205                | \$100.00       | \$7,928.50 |
| 01/13            | 576  | 76298362           | VO-8176                   | 2552                | \$1,150.00     | \$6,778.50 |
| 01/13            | 1332 | 76298562           | VO-8171                   | 7004                | \$750.00       | \$6,028.50 |
| 01/18            | 68   | 1873633            | VO-8145                   | 7003                | \$300.00       | \$5,728.50 |
| 01/18            | 286  | 78547970           | WCA-8024                  | 8521                | \$40.00        | \$5,688.50 |
| 01/18            | 1845 | 1873633            | VO-8145                   | 7001                | \$335.00       | \$5,353.50 |
| 01/18            | 1846 | 1873633            | VO-8145                   | 7205                | \$300.00       | \$5,053.50 |
| 01/21            | 26   | E-REPLENISHMENT    |                           | 7201                | \$1,200.00     | \$3,853.50 |
| 01/21            | 38   | 10417684           |                           | 9203                | -\$4,000.00    | \$7,853.50 |
| 01/25            | 1    | 10771086           | ITW-14124.71              | 1814                | \$130.00       | \$7,723.50 |
| 01/25            | 507  | 2219851            | NA-143-CON                | 2201                | \$88.00        | \$7,635.50 |
| 01/25            | 508  | 2219851            | AACC-8001                 | 7205                | \$300.00       | \$7,335.50 |
| 01/28            | 1    | 10056888           | AACC-8001                 | 7208                | \$600.00       | \$6,735.50 |
|                  |      |                    | KCC-15,463.1              | 1253                | \$900.00       | \$5,835.50 |
| START<br>BALANCE |      |                    | SUM OF<br>CHARGES         | SUM OF<br>REPLENISH | END<br>BALANCE |            |
| \$4,798.50       |      |                    | \$6,293.00                | \$7,330.00          | \$5,835.50     |            |

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